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EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
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3625

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/609,336
Filing Date: June 30, 2000
Appellant(s): BARNHILL ET AL.

Josefino P. de Leon
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 3, 2005.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Claimed Subject Matter*

The summary of claimed subject matter contained in the brief is correct.

(6) *Grounds of Rejection to be Reviewed on Appeal*

The appellant's statement of the grounds of rejection is correct.

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(7) Claims Appendix

The copy of the appealed claims contained in the Appendix is correct.

(8) Evidence Relied Upon

6,026,376

KENNY

2-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims. The ground(s) for rejection are reproduced below from the final Office Action and are provided here for the convenience of both Appellant and The Board of Patent Appeals:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Kenney
U.S. Patent No. 6,026,376.**

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Referring to claim 1. Kenney discloses a method for ordering products online (Abstract), comprising:

- Providing a server system for connection to a client system, said server system including product and order databases (Figure 3);
- Allowing the client system to be connected to the server system (Figure 3);
- Displaying on the client system a worksheet having rows and columns, two of said columns comprising empty fields (Figure 9);
- Allowing a customer operating the client system to build the worksheet with products desired to be ordered by filling in the empty fields with the product stock number included in the product database and corresponding quantities (Figure 10A and Figure 10B); and
- Allowing the customer to submit the worksheet to the server system to obtain a quote as to product price and availability or direct delivery by ordering the products listed thereon (Figure 10A and Figure 10B).

Referring to claim 2. Kenney further discloses a method wherein the worksheet is built by keying in stock numbers for the products included in the product database (column 10, lines 45-63).

Referring to claims 3-5. Kenney further discloses a method wherein the worksheet is built by searching the product database by:

- Category and adding the product found to the worksheet (column 4, lines 1-19, "Unique items such as flowers or vegetables could be ordered by category, number, and total cost or amount required.").

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- Manufacturer part number and adding the product found to the worksheet (column 4, lines 1-19, "Unique items such as flowers or vegetables could be ordered by category, number, and total cost or amount required.").
- Keyword and adding the product found to the worksheet (column 8, lines 10-50, "This allows, for example, a hierarchy of classifications to be assigned to each product to facilitate text-based searching for particular products or types of products.").

Referring to claims 6-8. Kenney further discloses a method wherein the worksheet is built by:

- Cloning product stock numbers from another worksheet (column 11, lines 8-20, "...selects any reorder items from an existing reorder list.");
- Cloning another worksheet (column 11, lines 8-20, "...install a reorder list."); and
- Cloning a product order (column 11, lines 8-20, "...install a reorder list.").

Referring to claims 9-11. Kenny further discloses a method wherein the worksheet is built by:

- Importing a template (column 11, lines 8-20);
- Importing a line item from a previous product order (column 11, lines 8-20); and
- Importing a line item from a template (column 11, lines 8-20).

Referring to claim 12. Kenny further discloses a method wherein the worksheet is built by loading a template into the worksheet and editing each line item as desired (column 11, lines 8-34).

Referring to claim 13. Kenny further discloses a method wherein the worksheet is built by loading a template into the worksheet (column 11, lines 8-34).

Referring to claim 14. Kenny further discloses a method comprising reserving the quote for a predetermined period of time (column 11, lines 8-34).

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Referring to claim 15. Claim 15 is rejected under the same rational as set forth above in claim 1.

Referring to claim 16. Kenny further discloses a client server system including means for saving said filled-in worksheet for later retrieval (column 11, lines 8-34).

Referring to claim 17. Claim 17 is rejected under the same rational as set forth above in claims 6-8.

Referring to claim 18. Claim 18 is rejected under the same rational as set forth above in claims 9-13.

Referring to claim 19. Claim 19 is rejected under the same rational as set forth above in claims 9-13.

Referring to claim 20. Claim 20 is rejected under the same rational as set forth above in claim 1.

Referring to claim 21. Kenny further discloses a website wherein:

- Said software includes a presentation layer (Figure 1);
- A business layer communicating with said presentation layer (Figure 2); and
- A data layer communicating with said business layer (Figure 2).

Referring to claim 22. Claim 22 is rejected under the same rational as set forth above in claim 1.

(11) Response to Argument**Claims 1, 5, 6**

The Appellant argues that Kenney does not disclose a worksheet that the shopper can interact with directly by filling in blank fields with items he wishes to buy (Appeal Brief, page 5).

The Examiner notes, Kenney does disclose a worksheet that the shopper can interact with directly by filling in blank fields with items he wishes to buy. As the shopper moves through Kenney's virtual store displayed via a computer, products can be selected for purchase such as by entering data through a product information window as shown in FIG. 9. A selection can then be automatically added to one or more lists, examples of which are shown in FIG. 9. For example, the lists can be alphabetical, by store location, or by warehouse location (or other "order fill" location). At least a list such as list **30** also automatically lists the number of items ordered, the unit cost and/or the total for each product, and a running total for the entire list (Kenney: column 10, lines 45-64).

Fig. 9 of Kenney further shows a worksheet having rows and columns where two of the columns are empty, which are then filled by the user with a product location number (product stock number) and corresponding quantity information.

Claim 2

The Appellant argues that Kenny does not disclose the shopper keying in stock numbers (Appeal Brief, page 5).

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The Examiner notes, as the shopper moves through the virtual store displayed via the computer **20**, products can be selected for purchase such as by entering data through the product information window **40** as shown in FIG. 9.

The Examiner further notes, the method also includes indicating to the computer the shopper's selection of a specific product. This can be by, for example, clicking on the displayed product, or clicking on the displayed product and dragging it to a video representation of a shopping cart, or answering a selection query in a display window on the screen. Selection can also be by a light pen, screen touch, keyboard actuation or other means. When a product is selected, it is automatically added to the selected product list (Kenney: column 12, lines 55-64).

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Claim 3

The Appellant argues that Kenny does not disclose a worksheet built by searching the product database by category and adding the product to the worksheet (Appeal Brief, page 9).

The Examiner notes, Kenny discloses (column 4, lines 1-19) that unique items such as flowers or vegetables could be ordered by category, number, and total cost or amount required (if applicable).

The Examiner further notes, the programmed computer **20** with its keyboard (for example) provide means for enabling the shopper to search the defined searchable directory in that the shopper types in one or more words to identify the product to be located (col. 11, lines 35-57).

Claim 4

The Appellant argues that Kenny does not disclose the step of searching the product database by manufacturer part number and adding the product found to the worksheet (Appeal Brief, page 10).

The Examiner notes, Kenny discloses (column 4, lines 1-19) that unique items such as flowers or vegetables could be ordered by category, number, and total cost or amount required (if applicable).

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The Examiner further notes, the programmed computer 20 with its keyboard (for example) provide means for enabling the shopper to search the defined searchable directory in that the shopper types in one or more words to identify the product to be located (col. 11, lines 35-57).

Claims 7-8

The Appellant argues that Kenney does not disclose cloning another worksheet (Appeal Brief, page 10).

The Examiner notes, the specification of the instant invention defines cloning as importing SKUs, quantities and other product data into an active worksheet from multiple sources (specification of application as originally filed, page 12). This is functionally equivalent to the method as defined by Kenny, wherein Kenny imports reorder items from an existing reorder list (column 11, lines 20-34).

Claims 9-11

The Appellant argues that Kenny does not disclose the step of importing a template, importing a line item from a previous product order, or importing a line item from a template (Appeal Brief, page 11).

The Examiner notes, Kenny discloses (column 11, lines 13-20) that a shopper can select any reorder item from an existing reorder list (template).

Claims 12-13

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The Appellant argues that Kenney does not disclose the step of loading a template into the worksheet (Appeal Brief, page 11).

The Examiner notes, Kenny discloses installing a reorder list, this reorder list contains items and associated prices and is stored in the CPU for a predetermined period of time (column 11, lines 8-12)

Claim 14

The Appellant argues that Kenney does not disclose the step of reserving the quote for a predetermined period of time (Appeal Brief, page 12).

The Examiner notes, Kenny discloses installing a reorder list, this reorder list contains items and associated prices and is stored in the CPU for a predetermined period of time (column 11, lines 8-12)

Claims 15-20

The Appellant argues that Kenney does not disclose means for displaying a worksheet including empty fields for entry by the customer of stock numbers and corresponding quantities of the product to be ordered (Appeal Brief, page 12).

The Examiner notes, Fig. 9 clearly shows a worksheet having rows and columns where two of the columns are empty, which are then filled by the user with a product stock number and corresponding quantity. Fig. 9 shows a product information window 40 to be displayed when the cursor 34 is placed on the shelf label "hot spot" and clicked on.

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The Examiner further notes, as the shopper moves through the virtual store displayed via the computer **20**, products can be selected for purchase such as by entering data through the product information window **40** as shown in FIG. 9 (i.e., by selecting "yes" after "purchase") or by single or double clicking on the product or the "hot spot" in a distinctive manner from that used for calling up the product information. A selection can then be automatically added to one or more lists, examples of which are shown in FIG. 9. For example, the lists can be alphabetical, by store location, or by warehouse location. At least a list such as list **30** also automatically lists the number of items ordered, the unit cost and/or the total for each product, and a running total for the entire list. The worksheet as defined by Kenny allows the shopper to interact with the list by filling in blank fields with items he wishes to buy.

Claim 21

The Appellant argues that Kenney does not disclose a software with a presentation layer, a business layer communicating with the presentation layer and a data layer communicating with the business layer (Appeal Brief, page 13).

The Examiner notes, the Appellant's arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. However, the hardware and software for implementing the system and method described above are in general conventional and known in the art. To the extent any modifications or additional hardware or software is needed in specifically implementing the invention, such modifications and additions are within the skill in the art given the explanation of the invention set forth above (column 13, lines 10-16).

Claim 22

The Appellant argues that Kenny does not disclose a monitor display in a client system for ordering products online wherein the monitor display shows a worksheet with rows and columns and empty fields for entry of stock numbers and corresponding quantities of the products to be ordered (Appeal Brief, page 13).

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The Examiner notes, Kenny provides for remote computer communication link access to the stored encoded digital signals such that at least portions of the stored encoded digital signals are selectable and transmissible over the communication link to a computer for displaying, on a monitor of the computer (Kenny, claim 20).

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Respectfully submitted,



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Art Unit 3625

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March 7, 2005

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